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2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ashkenazi et al.	Group Art Unit: 1647
Serial No.: 09/903,925	Examiner: Fozia Hamid
Filed: July 11, 2001	
For: SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS	<p>CERTIFICATE OF MAILING I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231 on</p> <p>Date</p>

RECEIVED

DECLARATION OF AUDREY D. GODDARD, Ph.D UNDER 37 C.F.R. § 1.132

JUN 10 2003

Assistant Commissioner of Patents
Washington, D.C. 20231

TECH CENTER 1600/2900

Sir:

I, Audrey D. Goddard, Ph.D. do hereby declare and say as follows:

1. I am a Senior Clinical Scientist at the Experimental Medicine/BioOncology, Medical Affairs Department of Genentech, Inc., South San Francisco, California 94080.
2. Between 1993 and 2001, I headed the DNA Sequencing Laboratory at the Molecular Biology Department of Genentech, Inc. During this time, my responsibilities included the identification and characterization of genes contributing to the oncogenic process, and determination of the chromosomal localization of novel genes.
3. My scientific Curriculum Vitae, including my list of publications, is attached to and forms part of this Declaration (Exhibit A).

Serial No.: *

Filed: *

4. I am familiar with a variety of techniques known in the art for detecting and quantifying the amplification of oncogenes in cancer, including the quantitative TaqMan PCR (i.e., "gene amplification") assay described in the above captioned patent application.

5. The TaqMan PCR assay is described, for example, in the following scientific publications: Higuchi *et al.*, Biotechnology 10:413-417 (1992) (Exhibit B); Livak *et al.*, PCR Methods Appl., 4:357-362 (1995) (Exhibit C) and Heid *et al.*, Genome Res. 6:986-994 (1996) (Exhibit D). Briefly, the assay is based on the principle that successful PCR yields a fluorescent signal due to Taq DNA polymerase-mediated exonuclease digestion of a fluorescently labeled oligonucleotide that is homologous to a sequence between two PCR primers. The extent of digestion depends directly on the amount of PCR, and can be quantified accurately by measuring the increment in fluorescence that results from decreased energy transfer. This is an extremely sensitive technique, which allows detection in the exponential phase of the PCR reaction and, as a result, leads to accurate determination of gene copy number.

6. The quantitative fluorescent TaqMan PCR assay has been extensively and successfully used to characterize genes involved in cancer development and progression. Amplification of protooncogenes has been studied in a variety of human tumors, and is widely considered as having etiological, diagnostic and prognostic significance. This use of the quantitative TaqMan PCR assay is exemplified by the following scientific publications: Pennica *et al.*, Proc. Natl. Acad. Sci. USA 95(25):14717-14722 (1998) (Exhibit E); Pitti *et al.*, Nature 396(6712):699-703 (1998) (Exhibit F) and Bieche *et al.*, Int. J. Cancer 78:661-666 (1998) (Exhibit G), the first two of which I am co-author. In particular, Pennica *et al.* have used the quantitative TaqMan PCR assay to study relative gene amplification of WISP and c-myc in various cell lines, colorectal tumors and normal mucosa. Pitti *et al.* studied the genomic amplification of a decoy receptor for Fas ligand in lung and colon cancer, using the quantitative TaqMan PCR assay. Bieche *et al.* used the assay to study gene amplification in breast cancer.

Serial No.: *

Filed: *

7. It is my personal experience that the quantitative TaqMan PCR technique is technically sensitive enough to detect at least a 2-fold increase in gene copy number relative to control. It is further my considered scientific opinion that an at least 2-fold increase in gene copy number in a tumor tissue sample relative to a normal (i.e., non-tumor) sample is significant and useful in that the detected increase in gene copy number in the tumor sample relative to the normal sample serves as a basis for using relative gene copy number as quantitated by the TaqMan PCR technique as a diagnostic marker for the presence or absence of tumor in a tissue sample of unknown pathology. Accordingly, a gene identified as being amplified at least 2-fold by the quantitative TaqMan PCR assay in a tumor sample relative to a normal sample is useful as a marker for the diagnosis of cancer, for monitoring cancer development and/or for measuring the efficacy of cancer therapy.

8. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true. I declare that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Tan. 16, 2003

Date

Audrey Goddard

Audrey D. Goddard, Ph.D.

**COMBINED DECLARATION FOR PATENT APPLICATION
AND POWER OF ATTORNEY**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

Secreted and Transmembrane Polypeptides and Nucleic Acids Encoding the Same

the specification of which (check one) _ is attached hereto or X was filed on September 18, 2000 as Application Serial No. 09/665,350 and was amended on _ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate have a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):	<u>Priority Claimed</u>
	<u>Yes</u> <u>No</u>

Number	Country	Day/Month/Year Filed
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I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional applications(s) listed below:

Application Ser. No.	Filing Date
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I hereby claim the benefit under Title 35, United States Code, §120 of any United States applications(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
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Application Ser. No.	Filing Date	Status: Patented, Pending, Abandoned
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POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.



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PATENT TRADEMARK OFFICE

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I hereby declare that all statements made herein of my own knowledge and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned hereby authorizes the U.S. attorney or agent named herein to accept and follow instructions from his foreign patent agent as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the U.S. attorney or agent and the undersigned. In the event of a change in the persons from whom instructions may be taken, the U.S. attorney or agent named herein will be so notified by the undersigned.

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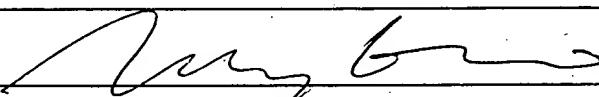
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